

AMENDED IN SENATE APRIL 11, 2005

SENATE BILL

No. 959

Introduced by Senator Kehoe

February 22, 2005

An act to amend ~~Section 120050 of~~ Sections 20340 and 20341 of the Public Contract Code, and to amend Sections 120100, 120105, 120220, 120224.1, 120224.3, 120224.4, 120260, 120264, 120300, 120301, 120302, 120351, 120352, 120355, 120400, 120452, 120508, 120540, 120630, and 120631 of, to add Sections 120220.5 and 120682 to, to repeal Sections 120262 and 120353 of, and to repeal and add Sections 120202, 120222, and 120350 of, the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 959, as amended, Kehoe. San Diego Metropolitan Transit Development Board.

Existing law, *the Mills-Deddeh Transit Development Act*, creates the San Diego Metropolitan Transit Development Board, which is authorized to perform certain transportation functions in a portion of the County of San Diego, *including planning and constructing exclusive public mass transit guideways. Under existing law, the board is authorized to enter into contracts for the acquisition of goods and services and is required to comply with specified requirements in that contracting process. Existing law authorizes the board to issue revenue bonds and to borrow money in accordance with certain procedures.*

~~This bill would make a nonsubstantive change to these provisions.~~

This bill would extend various types of benefits to the board that are accorded under existing law to other public agencies. The bill would revise the board's contracting requirements and its responsibilities for planning and constructing exclusive public mass transit guideways,

specifying that the board provide input on those matters to the San Diego Association of Governments (SDAG). The bill would name SDAG the designated recipient of federal transit funds and would require the board to administer its transportation funding and its public transit system in conformity with the San Diego Regional Transportation Consolidation Act. The bill would authorize the board to issue pension obligation bonds.

Because the bill would require the board and SDAG to assume additional responsibilities, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 120050 of the Public Utilities Code is~~
2 ~~amended to read:~~
3 *SECTION 1. Section 20340 of the Public Contract Code is*
4 ~~amended to read:~~
5 20340. The provisions of this article shall apply to contracts
6 by the San Diego Metropolitan Transit Development ~~Boards~~
7 Board, as provided for in Division 11 (commencing with Section
8 120000) of the Public Utilities Code.
9 *SEC. 2. Section 20341 of the Public Contract Code is*
10 ~~amended to read:~~
11 20341. (a) Except as provided in subdivision (c), contracts
12 for construction in excess of ~~twenty~~ fifty thousand dollars
13 ~~(\$20,000)~~ (\$50,000) shall be awarded to the lowest responsible
14 bidder submitting a responsive bid after competitive bidding,
15 except in emergency declared by the vote of two-thirds of the
16 membership of the board. ~~When~~ If the expected construction
17 contract exceeds one thousand dollars (\$1,000) and does not

1 exceed ~~twenty fifty~~ thousand dollars ~~(\$20,000)~~ (\$50,000), the
2 board shall seek a minimum of three quotations, either written or
3 oral, ~~which that~~ permit prices and other terms to be compared,
4 ~~and the board shall award the contract to the bidder who~~
5 ~~submitted the lowest quotation.~~

6 (b) If no bids are received, the project may be performed by a
7 negotiated contract.

8 (c) This section does not apply to the Los Angeles County
9 Metropolitan Transportation Authority.

10 *SEC. 3. Section 120100 of the Public Utilities Code is*
11 *amended to read:*

12 120100. The board at its first meeting, and thereafter annually
13 at the first meeting in January, shall elect a vice chairman who
14 shall preside in the absence of the chairman. In the event of the
15 absence or inability to act by the chairman or vice chairman, the
16 ~~members present, by an order entered in the minutes, shall select~~
17 ~~one of their members to act as chairman~~ *chair* pro tem, ~~who,~~
18 ~~while so acting, shall have all of the authority of the chairman~~
19 *preside.*

20 *SEC. 4. Section 120105 of the Public Utilities Code is*
21 *amended to read:*

22 120105. The board shall *perform the following duties:*

23 (a) ~~Determine whether to operate~~ exclusive public mass transit
24 ~~guideways to be acquired and constructed, the means to finance~~
25 ~~such systems, and whether to operate such systems or to let~~
26 ~~contracts for such~~ *their* operation.

27 (b) *Determine the means to finance the operation of public*
28 *mass transit guideways.*

29 (c) Adopt an annual budget and fix the compensation of its
30 officers and employees.

31 ~~(e)~~

32 (d) Adopt an administrative code, by ordinance, ~~which that~~
33 shall prescribe the powers and duties of board officers, the
34 method of appointment of board employees, and methods,
35 procedures, and systems of operation and management of the
36 board. The administrative code shall also provide for, among
37 other things, the appointment of a general manager or chief
38 executive officer, and the organization of the employees of the
39 board into units for *finance and* administration, ~~design and~~
40 ~~construction, planning and operation~~ *operations*, property

1 acquisition *and management*, and community relations, and ~~such~~
2 other units as the board deems necessary.

3 ~~(d)~~

4 (e) Cause a postaudit of the financial transactions and records
5 of the board to be made at least annually by a certified public
6 accountant.

7 ~~(e)~~

8 (f) Adopt all ordinances and make all rules and regulations
9 proper or necessary to regulate the use, operation, and
10 maintenance of its property and facilities, including its public
11 transit systems and related transportation facilities and services
12 operating within its area of jurisdiction, and to carry into effect
13 the powers granted to the board.

14 ~~(f)~~

15 (g) Appoint such advisory commissions as it deems necessary.

16 ~~(g)~~

17 (h) Do any and all things necessary to carry out the purposes
18 of this division.

19 *SEC. 5. Section 120202 of the Public Utilities Code is*
20 *repealed.*

21 ~~120202. All claims for money or damages against the board~~
22 ~~are governed by Division 3.6 (commencing with Section 810) of~~
23 ~~Title 1 of the Government Code except as provided therein, or by~~
24 ~~other statutes or regulations expressly applicable thereto.~~

25 *SEC. 6. Section 120202 is added to the Public Utilities Code,*
26 *to read:*

27 *120202. (a) All of the privileges, immunities from liability,*
28 *and exemptions from laws, ordinances, and rules, and all*
29 *pension, relief, disability, workers' compensation, and other*
30 *benefits that apply to the activity of officers, agents, or employees*
31 *of a public agency when performing their respective functions*
32 *shall apply to employees of the board, and to any nonprofit*
33 *public benefit corporation of which the board is the sole member.*

34 *(b) All claims for money or damages against the board or its*
35 *employees, and against any nonprofit public benefit corporation*
36 *of which the board is the sole member or the employees of that*
37 *corporation, shall be governed by Part 1 (commencing with*
38 *Section 810), Part 2 (commencing with Section 814), Part 3*
39 *(commencing with Section 900), and Part 4 (commencing with*
40 *Section 940) of Division 3.6 of Title 1 of the Government Code*

1 *applicable to public agencies and their employees, or by other*
2 *statutes or regulations expressly applicable thereto.*

3 *SEC. 7. Section 120220 of the Public Utilities Code is*
4 *amended to read:*

5 120220. The board may make contracts and enter into
6 stipulations of any nature whatsoever, either in connection with
7 eminent domain proceedings or otherwise, including, without
8 limiting the generality of the foregoing, contracts and stipulations
9 to indemnify and save harmless, to employ labor, ~~to contract with~~
10 ~~a private patrol operator licensed pursuant to Chapter 11~~
11 ~~(commencing with Section 7500) of Division 3 of the Business~~
12 ~~and Professions Code, with the county sheriff and municipal~~
13 ~~police departments within the areas described in Section 120054,~~
14 ~~and with other transit development boards for security, police,~~
15 ~~and related services, and to do all acts necessary and convenient~~
16 ~~for the full exercise of the powers granted in this division.~~

17 *SEC. 8. Section 120220.5 is added to the Public Utilities*
18 *Code, to read:*

19 120220.5. *The board may provide and maintain by contract*
20 *with a public agency or by other means, a security force to*
21 *enforce its regulations, to preserve and protect any public transit*
22 *system or project financed pursuant to this division, and to*
23 *preserve and protect the public peace, health, and safety with*
24 *respect to its system or projects. Alternatively, the board may*
25 *contract with a private patrol operator licensed pursuant to*
26 *Chapter 11.5 (commencing with Section 7580) of Division 3 of*
27 *the Business and Professions Code, with the county sheriff and*
28 *municipal police departments within the areas described in*
29 *Section 120054, and with other transit development boards for*
30 *security, police, and related services.*

31 *SEC. 9. Section 120222 of the Public Utilities Code is*
32 *repealed.*

33 ~~120222. Contracts for the purchase of supplies, equipment,~~
34 ~~and materials in excess of fifty thousand dollars (\$50,000) shall~~
35 ~~be awarded to the lowest responsible bidder submitting a~~
36 ~~responsive bid after competitive bidding, except in emergency~~
37 ~~declared by the vote of two-thirds of the membership of the~~
38 ~~board. When the expected purchase contract exceeds two~~
39 ~~thousand five hundred dollars (\$2,500) and does not exceed fifty~~
40 ~~thousand dollars (\$50,000), the board shall seek a minimum of~~

~~three quotations, either written or oral, which permit prices and other terms to be compared.~~

SEC. 10. Section 120222 is added to the Public Utilities Code, to read:

120222. (a) The Legislature finds and declares that a compelling interest exists in ensuring that all federal, state, local, and private funds available to the board are captured and used in a timely manner. In order to maximize the use of federal, state, local, and private funds and to maintain a competitive posture in seeking supplemental federal funds, the board shall have the authority to establish and use a flexible contracting process to maximize its efficient use of public funds.

(b) Except in cases when an article of a specified brand or trade name is the only article that will properly meet the needs of the board or in an emergency declared by the vote of two-thirds of the membership of the board, all contracts for the acquisition or lease of materials, supplies, or equipment in an amount of one hundred thousand dollars (\$100,000), or in excess of that amount as authorized by the board, shall be made or entered into with the lowest responsible bidder meeting specifications. For purposes of determining the lowest bid, the amount of sales tax shall be excluded from the total amount of the bid. When the expected purchase amount of the contract exceeds five thousand dollars (\$5,000) and does not exceed one hundred thousand dollars (\$100,000), the board shall seek a minimum of three quotations, either written or oral, to permit comparison of prices and other terms.

(c) Except in cases of an emergency declared by the vote of two-thirds of the membership of the board, the board shall for all contracts for the acquisition of services that exceed one hundred thousand dollars (\$100,000), that will not be performed by an entity described in Section 120221.5, and that are not within the category of services defined in Section 4525 of the Government Code, solicit bids in writing and award the contract in a competitive procurement process that is in the best interest of the board, including, but not limited to, a negotiated procurement that may or may not evaluate price as a consideration. When the expected amount of the service contract exceeds five thousand dollars (\$5,000) and does not exceed one hundred thousand dollars (\$100,000), the board shall seek a minimum of three

1 *quotations, either written or oral, to permit comparison of prices*
2 *and other terms.*

3 *(d) The board shall award contracts for architectural,*
4 *landscape architectural, engineering, environmental, land*
5 *surveying services, and construction project management*
6 *services that are in excess of one hundred thousand dollars*
7 *(\$100,000) in accordance with the provisions of Chapter 10*
8 *(commencing with Section 4525) of Division 5 of Title 1 of the*
9 *Government Code.*

10 *(e) Notwithstanding any other provisions of this chapter, the*
11 *board may use any procurement method authorized for state or*
12 *local agencies under state or federal law, including, but not*
13 *limited to, a competitive negotiation process in accordance with*
14 *the provisions of Article 7.5 (commencing with Section 20216) of*
15 *Chapter 1 of Part 3 of Division 2 of the Public Contract Code.*
16 *The board shall maintain acquisition and contracting guidelines*
17 *and comply with those guidelines in the procurement of all goods*
18 *and services.*

19 *(f) Provisions in any federally funded contract concerning*
20 *disadvantaged business enterprises that are in accordance with*
21 *the request for proposals shall not be subject to negotiation with*
22 *the successful bidder.*

23 *SEC. 11. Section 120224.1 of the Public Utilities Code is*
24 *amended to read:*

25 *120224.1. (a) Upon determining that immediate remedial*
26 *measures to avert or alleviate damage to, or to repair or restore*
27 *damaged or destroyed property of, the board are necessary in*
28 *order to insure that the facilities of the board are available to*
29 *serve the transportation needs of the general public or to comply*
30 *with any state or federal regulation with respect to the operation*
31 *of public transportation services, and upon determining that*
32 *available remedial measures, including procurement in*
33 *compliance with Sections 120222, and 120223, ~~and 120224~~, are*
34 *inadequate, the general manager or chief executive officer may*
35 *authorize the expenditure of money previously appropriated by*
36 *the board specifically for the direct purchases of goods and*
37 *services, without observance of the provisions of those sections.*

38 *(b) The general manager or chief executive officer, after the*
39 *expenditure authorized under subdivision (a) has been made,*

1 shall submit to the board a full report explaining the necessity for
2 that action.

3 *SEC. 12. Section 120224.3 of the Public Utilities Code is*
4 *amended to read:*

5 120224.3. Notwithstanding Section 120222, the board may
6 direct the purchase of any supply, equipment, or materials
7 without observance of any provision requiring contracts, bids, or
8 advertisements upon a finding by two-thirds of all members of
9 the board that there is only a single source of procurement
10 therefor and that the purchase is for the sole purpose of
11 duplicating, *repairing*, or replacing supply, equipment, or
12 ~~material which is~~ *materials that are* in use, *including upgrades or*
13 *migrations of proprietary intellectual property.*

14 *SEC. 13. Section 120224.4 of the Public Utilities Code is*
15 *amended to read:*

16 120224.4. (a) ~~The Legislature finds and declares that the~~
17 ~~award of purchase contracts by the board under competitive bid~~
18 ~~procedures may not be feasible for products and materials which~~
19 ~~are undergoing rapid technological changes or for the~~
20 ~~introduction of new technologies into board operations, and that~~
21 ~~in these circumstances it is in the public interest to consider the~~
22 ~~broadest possible range of competing products and materials~~
23 ~~available, fitness of purpose, manufacturer's warranty, and other~~
24 ~~similar factors in addition to price in the award of these contracts.~~

25 ~~(b) Notwithstanding Section 120222 the board may, after a~~
26 ~~finding by a two-thirds vote that a particular procurement~~
27 ~~qualifies under subdivision (g), direct that the procurement be~~
28 ~~conducted through competitive negotiation under this section.~~
29 ~~For purposes of this section, competitive negotiation includes,~~
30 ~~but is not limited to, all of the following requirements:~~

31 ~~(1) The request for proposals shall be prepared and submitted~~
32 ~~to an adequate number of qualified sources, as determined by the~~
33 ~~board, to permit reasonable competition consistent with the~~
34 ~~nature and requirements of the procurement. In addition, notice~~
35 ~~of the request for proposals shall be published at least twice in a~~
36 ~~newspaper of general circulation, at least 10 days before the date~~
37 ~~for receipt of the proposals. The board shall make every effort to~~
38 ~~generate the maximum feasible number of proposals from~~
39 ~~qualified sources and shall make a finding to that effect before~~

1 ~~proceeding to negotiate if only a single response to the request~~
2 ~~for proposals is received.~~

3 ~~(2) The request for proposals shall identify all significant~~
4 ~~evaluation factors, including price, and their relative importance.~~

5 ~~(3) The board shall provide reasonable procedures for~~
6 ~~technical evaluation of the proposals received, identification of~~
7 ~~qualified sources, and selection for contract award.~~

8 ~~(4) Contract awards shall be made to the qualified proposer~~
9 ~~whose proposal will be most advantageous to the board, with~~
10 ~~price and all other factors considered. If award is not made to the~~
11 ~~bidder whose proposal contains the lowest price, the board shall~~
12 ~~make a finding setting forth the basis for the award.~~

13 ~~(e) The board may reject any and all proposals and request~~
14 ~~new proposals, at its discretion.~~

15 ~~(d) Prior to making an award, the board shall prepare a price~~
16 ~~analysis and shall find that the final negotiated price is fair and~~
17 ~~reasonable based upon comparable procurements in the~~
18 ~~marketplace.~~

19 ~~(e) Upon making an award to a qualified proposer, the board,~~
20 ~~upon request, shall make available to all other proposers and to~~
21 ~~the public, an analysis of the award which provides the basis for~~
22 ~~the selection of that particular qualified proposal.~~

23 ~~(f) A person who submits, or who plans to submit, a proposal~~
24 ~~in response to a procurement solicitation may protest any~~
25 ~~acquisition conducted in accordance with this section Sections~~
26 ~~120222 and 120223 as follows:~~

27 ~~(1) Protests based on the content of the request for proposals~~
28 ~~procurement solicitation shall be filed with the board within 10~~
29 ~~calendar days after the request for proposals procurement~~
30 ~~solicitation is first advertised in accordance with subdivision (c).~~
31 ~~The board general manager or the chief executive officer, or the~~
32 ~~designee of the general manager or chief executive officer, shall~~
33 ~~issue a written decision on the protest prior to opening of~~
34 ~~proposals the procurement solicitation. A protest may be~~
35 ~~renewed by refiling the protest with the board within 15 calendar~~
36 ~~days after the mailing of the notice of the recommended intent to~~
37 ~~award.~~

38 ~~(2) Any bidder may protest the recommended intent to award~~
39 ~~on any ground not based upon the content of the request for~~
40 ~~proposals procurement solicitation by filing a protest with the~~

1 board within 15 calendar days after the mailing of the notice of
2 the ~~recommended intent to award~~.

3 (3) Any protest shall contain a full and complete written
4 statement specifying in detail the grounds of the protest and the
5 facts supporting the protest. Protestors shall have an opportunity
6 to appear and be heard before the board prior to the opening of
7 ~~proposals~~ *the procurement solicitation* in the case of protests
8 based on the content of the ~~request for proposals~~ *procurement*
9 *solicitation*, or prior to final award in the case of protests based
10 on other grounds or the renewal of protests based on the content
11 of the ~~request for proposals~~ *procurement solicitation*.

12 ~~(g) This section applies only to the purchase by the board of~~
13 ~~specialized rail transit equipment, computers,~~
14 ~~telecommunications equipment, fare collection equipment,~~
15 ~~microwave equipment, and other related electronic equipment~~
16 ~~and apparatus, and of rail cars. This section does not apply to~~
17 ~~contracts for construction or for the procurement of any product~~
18 ~~available in substantial quantities to the general public.~~

19 ~~(h) Provisions in any contract concerning women and minority~~
20 ~~business enterprises, which provisions are in accordance with the~~
21 ~~request for proposals, shall not be subject to negotiation with the~~
22 ~~successful bidder.~~

23 ~~(b) The decision of the protest by the board shall be in writing~~
24 ~~and constitutes a final administrative decision for purposes of~~
25 ~~judicial review pursuant to Section 1094.6 of the Code of Civil~~
26 ~~Procedure.~~

27 *SEC. 14. Section 120260 of the Public Utilities Code is*
28 *amended to read:*

29 120260. The board shall ~~plan and construct~~ *provide input to*
30 *the San Diego Association of Governments on the planning and*
31 *construction of exclusive public mass transit guideways in the*
32 *area under its jurisdiction in conformance with the California*
33 *Transportation Plan and the regional transportation plan*
34 *developed pursuant to Chapter 2.5 (commencing with Section*
35 *65080 65080.1) of Division 1 of Title 7 of the Government Code.*

36 *SEC. 15. Section 120262 of the Public Utilities Code is*
37 *repealed.*

38 ~~120262. (a) The Legislature finds that it is in the public~~
39 ~~interest that the construction of exclusive public mass transit~~
40 ~~guideways commence as soon as possible so that their operation~~

1 ~~may also commence as soon as possible. Therefore, in planning~~
2 ~~and constructing such guideways, the board shall give priority~~
3 ~~consideration to guideway technology presently available and in~~
4 ~~use.~~

5 ~~(b) Such a guideway system shall be planned in such a manner~~
6 ~~that it may be constructed, and brought into operation, on an~~
7 ~~incremental basis so that available fiscal resources may be~~
8 ~~utilized as early as possible and, if the guideway system is a~~
9 ~~medium capacity system, it shall be capable of being upgraded to~~
10 ~~a higher service capacity when necessary.~~

11 ~~(e) To the extent feasible, transportation rights-of-way of~~
12 ~~public entities shall be utilized to minimize the cost of~~
13 ~~construction.~~

14 *SEC. 16. Section 120264 of the Public Utilities Code is*
15 *amended to read:*

16 120264. The transit development board may acquire,
17 construct, maintain, and operate (or let a contract to operate)
18 public transit systems and related transportation facilities and
19 services as it deems necessary to carry out the purposes of this
20 division *in conformity with, and to the extent provided in, the San*
21 *Diego Regional Transportation Consolidation Act (Chapter 3*
22 *(commencing with Section 132350) of Division 12.7).* The
23 various systems, facilities, and services may be administered by
24 the transit development board under the name of the San Diego
25 Metropolitan Transit System.

26 *SEC. 17. Section 120300 of the Public Utilities Code is*
27 *amended to read:*

28 ~~120300. The council of governments which San Diego~~
29 ~~Association of Governments that includes the area of the board~~
30 ~~shall be responsible for long-term transportation system planning~~
31 ~~in such that area. Such~~

32 *The planning shall be directed to, among other things:*

- 33 (a) Identification of corridors of travel.
34 (b) Definition of the transportation problems of each corridor.
35 (c) Definition of the transportation goals for each corridor.
36 (d) Definition of land use goals, with the concurrence of
37 affected local jurisdiction, to be supported by transportation
38 investment decisions in each corridor.
39 (e) Recommendation of priority corridors for guideway
40 development.

(f) Recommendation of the mix of alternative transportation modes appropriate for deployment in light of transportation needs and goals for each corridor.

(g) Recommendation of environmental, economic, energy, and social policies that should guide transportation investment decision within corridors.

SEC. 18. Section 120301 of the Public Utilities Code is amended to read:

120301. With respect to the area under its jurisdiction, the board shall be responsible for ~~near-term operational planning directed to:~~

~~(a) Determination of the amount of funds available for transportation development.~~

~~(b) Selection of appropriate transportation technology.~~

~~(c) Determination of capacity for exclusive public mass transit guideway technology.~~

~~(d) Determination of operating performance criteria and costs for such guideway system.~~

~~(e) Location of routes and access points to the guideway system.~~

~~(f) Overall staging of the guideway system operational planning, which includes all planning and monitoring necessary for the operation, implementation, modification, and elimination of public transportation services operated by the board.~~

SEC. 19. Section 120302 of the Public Utilities Code is amended to read:

120302. Notice of the time and place of the public hearing ~~for the adoption of the plan prepared pursuant to Section 120301, or amendments to the plan,~~ by the board shall be published pursuant to Section 6061 of the Government Code, and shall be published not later than the 15th day prior to the date of the hearing.

~~The proposed plan, or amendments thereto, as the case may be, materials for the public hearing shall be available for public inspection at least 15 days prior to the hearing.~~

SEC. 20. Section 120350 of the Public Utilities Code is repealed.

~~120350. The Legislature finds and declares:~~

~~(a) That the near-term programming and budgeting requirements of state and federal law is a cooperative intergovernmental planning process intended to determine the~~

1 ~~foreseeable capital and operational needs of a multimodal~~
2 ~~transportation system.~~

3 ~~(b) That there is an absence of an adequate forum in which~~
4 ~~local officials may exercise leadership in multimodal near-term~~
5 ~~transportation planning and programming.~~

6 *SEC. 21. Section 120350 is added to the Public Utilities*
7 *Code, to read:*

8 *120350. The provisions of Article 6 (commencing with*
9 *Section 120350) and Article 7 (commencing with Section*
10 *120400) shall be implemented in conformity with, and subject to,*
11 *the San Diego Regional Transportation Consolidation Act*
12 *(Chapter 3 (commencing with Section 132350) of Division 12.7).*

13 *SEC. 22. Section 120351 of the Public Utilities Code is*
14 *amended to read:*

15 *120351. The designated recipient for purposes of ~~Section~~*
16 *~~1604~~ Chapter 53 (commencing with Section 5301) of Subtitle III*
17 *of Title 49 of the United States Code shall be the San Diego*
18 *Association of Governments, and it shall be responsible for*
19 *allocating federal transit funds to eligible recipients. The board*
20 *shall prepare the program of projects for transit capital and*
21 *operating assistance projects in its area of jurisdiction for receipt*
22 *of federal funds. The ~~designated recipient~~ San Diego Association*
23 *of Governments shall allocate the funds to the board to fund its*
24 *projects. If a dispute regarding the allocation of funds arises*
25 *between the board and the North San Diego County Transit*
26 *Development Board, the two boards shall negotiate in good faith*
27 *to resolve the dispute. If the negotiation does not result in*
28 *resolving the dispute prior to adoption of the annual regional*
29 *transportation improvement program, the ~~designated recipient~~*
30 *San Diego Association of Governments shall resolve the dispute*
31 *and allocate the funds accordingly.*

32 *SEC. 23. Section 120352 of the Public Utilities Code is*
33 *amended to read:*

34 *120352. The board may receive any money pursuant to*
35 *~~Section 1604~~ Chapter 53 (commencing with Section 5301) of*
36 *Subtitle III of Title 49 of the United States Code for mass transit*
37 *purposes, and reallocate ~~such that~~ money for ~~such~~ those purposes*
38 *in accordance with federal law and rules and regulations.*

39 *SEC. 24. Section 120353 of the Public Utilities Code is*
40 *repealed.*

~~120353. The board shall be responsible for near-term, five-year transportation planning and the development of an annual transportation improvement program. Where required by federal law, the program shall be subject to review by the council of governments which includes the area under the jurisdiction of the board.~~

SEC. 25. Section 120355 of the Public Utilities Code is amended to read:

120355. The board may take all action necessary to obtain funding available pursuant to ~~Section 1602 Chapter 53 (commencing with Section 5301) of Subtitle III~~ of Title 49 of the United States Code.

~~No other public entity in the area under the jurisdiction of the board shall file application for such funds for exclusive public mass transit guideway purposes. Any project of such other public entity funded by such funds shall be in conformance with the transportation improvement program of the board.~~

SEC. 26. Section 120400 of the Public Utilities Code is amended to read:

120400. The board may accept contributions, grants, or loans from any public agency or the United States or any department, instrumentality, or agency thereof, for the purpose of financing the planning, acquisition, construction, or operation of ~~exclusive public mass transit guideways~~ *public transportation services*, and may enter into contracts and cooperate with, and accept cooperation from, any public agency or the United States, or agency thereof, in the planning, acquisition, construction, or operation of ~~any such guideways~~ *of those public transportation services* in accordance with any legislation ~~which that~~ Congress or the Legislature of the State of California may have heretofore adopted or may hereafter adopt, under which aid, assistance, and cooperation may be furnished by the United States or any public agency in the planning, acquisition, construction, or operation of ~~any such guideways~~ *of those public transportation services*. The board may do any and all things necessary in order to avail itself of ~~such~~ *this* aid, assistance, and cooperation under any federal or state legislation now or hereafter enacted.

SEC. 27. Section 120452 of the Public Utilities Code is amended to read:

120452. Violation of any ordinance, rule, or regulation enacted by the board prohibiting the unauthorized entering into, climbing upon, holding onto, or in any manner attaching oneself to vehicles operated upon exclusive public mass transit guideways owned or controlled by the board, is an infraction punishable by a fine not exceeding fifty dollars (\$50), except that such a violation by a person, after the first conviction under this section, is a ~~misdemeanor~~ *misdemeanor* punishable by a fine not exceeding five hundred dollars (\$500) or by imprisonment not exceeding six months, or by both that fine and imprisonment.

SEC. 28. *Section 120508 of the Public Utilities Code is amended to read:*

120508. (a) This article also applies to the employee relations of employees of a nonprofit entity ~~which~~ *that* operates public mass transit services and ~~which~~ *that* is solely owned by the board. For employee relations regarding these employees, the term “board,” as used in this article, means the board and the board of directors of the nonprofit entity as the joint employer of the employees.

(b) The board may, at any time in its sole discretion, abolish any nonprofit entity *or merge any nonprofit entity with another nonprofit entity or with the board.*

(c) Upon abolishing *or merging* a nonprofit entity pursuant to subdivision (b), the board shall become the sole employer of the employees of the nonprofit entity and shall assume sole responsibility to observe all existing labor contracts established and maintained pursuant to this article.

(d) Except as may be agreed upon through the collective bargaining process, nothing in this section shall prohibit or limit the right of the board to contract with common carriers of persons operating under a franchise, license, or other agreement. Any provision in an existing collective bargaining agreement made applicable to the board in its capacity as a joint employer with a nonprofit entity pursuant to subdivision (a) or sole successor employer pursuant to subdivision (b) that is intended to prohibit or limit the right of a nonprofit entity to contract out covered bargaining unit services to another common carrier of persons shall not be binding upon the board with respect to any contract for services entered into, renewed, or extended by the board prior to January 1, 2004, and thereafter shall apply only to

1 contracts for bargaining unit services covered by an existing
2 collective bargaining agreement assumed by the board unless
3 otherwise agreed upon through the collective bargaining process.

4 *SEC. 29. Section 120540 of the Public Utilities Code is*
5 *amended to read:*

6 120540. It shall be a condition of the operation of any transit
7 facility owned or controlled by the board that ~~subsection (c) of~~
8 ~~Section 1609 5333~~ of Title 49 of the United States Code shall be
9 given effect to the extent required by law.

10 *SEC. 30. Section 120630 of the Public Utilities Code is*
11 *amended to read:*

12 120630. The board may issue bonds, payable from revenue of
13 any facility or enterprise to be acquired or constructed by, *or on*
14 *behalf of*, the board, in the manner provided by the Revenue
15 Bond Law of 1941 (Chapter 6 (commencing with Section 54300)
16 of Part 1 of Division 2 of Title 5 of the Government Code), and
17 all of the provisions of that law are applicable to the board.

18 *SEC. 31. Section 120631 of the Public Utilities Code is*
19 *amended to read:*

20 120631. The board is a local agency within the meaning of
21 the Revenue Bond Law of 1941 (Chapter 6 (commencing with
22 Section 54300) of Part 1 of Division 2 of Title 5 of the
23 Government Code). The term “enterprise,” as used in the
24 Revenue Bond Law of 1941, for all purposes of this article,
25 includes the transit system or any or all transit facilities and all
26 additions, extensions, and improvements thereto authorized to be
27 acquired, constructed, or completed by the board.

28 The board may issue revenue bonds under the Revenue Bond
29 Law of 1941 for any one or more transit facilities authorized to
30 be acquired, constructed, or completed by, *or on behalf of*, the
31 board or, in the alternative, the board may issue revenue bonds
32 under the Revenue Bond Law of 1941 for the acquisition,
33 construction, and completion of any one of those transit facilities.

34 Nothing in this article prohibits the board from availing itself
35 of, or making use of, any procedure provided in this chapter for
36 the issuance of bonds of any type or character for any of the
37 transit facilities authorized hereunder, and all proceedings may
38 be carried on simultaneously or, in the alternative, as the board
39 may determine.

1 *SEC. 32. Section 120682 is added to the Public Utilities*
2 *Code, to read:*

3 *120682. The board or any nonprofit corporation of which the*
4 *board is the sole member, may issue pension obligation bonds.*

5 *SEC. 33. If the Commission on State Mandates determines*
6 *that this act contains costs mandated by the state, reimbursement*
7 *to local agencies and school districts for those costs shall be*
8 *made pursuant to Part 7 (commencing with Section 17500) of*
9 *Division 4 of Title 2 of the Government Code.*

10 ~~120050. (a) There is hereby established the San Diego~~
11 ~~Metropolitan Transit Development Board in the portion of the~~
12 ~~County of San Diego described in Section 120054.~~

13 ~~(b) The board shall also be known as the San Diego~~
14 ~~Metropolitan Transit System. Any reference in law to the board~~
15 ~~shall be construed to include a reference to the San Diego~~
16 ~~Metropolitan Transit System.~~